

IN THE HOUSE OF REPRESENTATIVES.

JANUARY 30, 1865.

Read twice, referred to the Committee on Military Affairs, and ordered to be printed.

Mr. GARFIELD, on leave, introduced the following bill:

A BILL

To provide for the construction of a line of railway communication between the cities of Washington and New York, and to constitute the same a public highway and a military road and postal route of the United States.

Whereas the necessities of the general government require the construction of a national military and postal railway between the city of Washington and the city of New York; Therefore, to provide for said necessities, for the common defence, the general welfare, and the commercial interests of the United States—

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That William B. Astor, Alexander T. Stewart, Auguste Bel-
4 mont, Henry G. Stebbins, Marshal O. Roberts, Leonard W.
5 Jerome, Erastus Corning, Robert B. Minturn, David Hoadley,
6 Samuel L. M. Barlow, Charles A. Secor, Dean Richmond,
7 Henry G. Claflin, and John C. Fremont, of the State of New
8 York; John M. Forbes, J. Wiley Edmonds, Amos A. Law-

9 rence, Franklin Haven, William Claflin, and Gaury Twitchell,
 10 of the State of Massachusetts; Cornelius S. Bushnell, Henry
 11 Trowbridge, and A. G. Hazard, of the State of Connecticut;
 12 Admiral S. F. Dupont and William Cannop, of the State of
 13 Delaware; Henry C. Carey, Samuel V. Merrick, Joseph
 14 Harrison, Simon Cameron, James H. Orne, Joseph Pat-
 15 terson, and Charles McAllister, of the State of Penn-
 16 sylvania; George Brown, of the State of Maryland; and
 17 George W. Riggs and Henry D. Cooke, of the District
 18 of Columbia, together with such other persons as may
 19 become associated with them for that purpose, together with
 20 their successors, are hereby created and erected into a body
 21 corporate and politic, in deed and in law, by the name, style,
 22 and title of "The National Railway Company," and by that
 23 name shall have perpetual succession; and shall be able to
 24 sue and to be sued, plead and be impleaded, defend and be
 25 defended, in all courts of law and equity within the United
 26 States; and may make and use a common seal, and may
 27 adopt by-laws for its regulation and government. Said cor-
 28 poration shall also have power to execute mortgages and
 29 deeds of trust upon their property and franchises, real and
 30 personal; and negotiate loans, and to borrow money upon
 31 their bonds and other securities.

1 SEC. 2. *And be it further enacted,* That the said cor-
 2 poration is hereby authorized and empowered, in the name

3 and on behalf of the United States, to survey, locate, lay
4 out, construct, equip, maintain, operate, use, collect tolls
5 upon, and enjoy a continuous line of railroad, of one or more
6 tracks, with all the appurtenances, between the cities of New
7 York and Washington, upon a route to be surveyed and
8 designated by a competent engineer, appointed by them
9 and approved by the Secretary of the Interior, commencing
10 at Washington, District of Columbia, and running thence,
11 through the States of Maryland, Pennsylvania, and New
12 Jersey, to the Hudson river, and shall have power to con-
13 struct a railroad, with a single or double track, from a point
14 in the city of Washington, by the most eligible route, to the
15 Hudson river, opposite the city of New York, or to connect
16 with some navigable line leading to New York; and said
17 road may unite with and use any part or the whole of any
18 road now constructed, or which may hereafter be constructed,
19 under any State charter, by and with the consent of said
20 companies, and may make any agreement necessary to effect
21 that object for the consolidation of the stock of said roads, or
22 any arrangement in regard to the use thereof, and whereby
23 the whole of said road or roads shall be declared a lawful
24 structure and military and postal road and part of the mili-
25 tary establishment of the United States, by the name of the
26 National Railway Company, for the better transportation of
27 mails, troops, and munitions of war, and for facilitating trade

28 and communication between the States: *Provided*, That to
29 secure the said road or roads from interruption by any
30 foreign enemy, in case of war, the same shall cross the rivers
31 Susquehanna and Delaware at some point above tide-water.

1 SEC. 3. *And-be it further enacted*, That the capital
2 stock of said company shall be ten million dollars; and shall
3 consist of one hundred thousand shares of one hundred dollars
4 each, which shall be subscribed for upon the books of said
5 company, and shall be transferable in such manner as the
6 by-laws of said company shall prescribe. The persons herein
7 before named, or any fifteen of them, may give notice to
8 the corporators to assemble at the city of New York for the
9 purpose of prescribing regulations for opening the books of
10 subscription to said stock, at some convenient place in Wash-
11 ington, Philadelphia, New York, Easton, Harrisburg, Lan-
12 caster, Reading, and Columbia, at such time as they may
13 designate, by public notice of at least ten days in one daily
14 paper in each of said cities or counties, and said books shall
15 be kept open until the whole of said amount of stock shall be
16 subscribed, or so much of it as may be required to complete
17 or finish the said road. A cash payment of ten per centum
18 on all subscriptions shall be paid, at the time of subscribing,
19 to the person or persons properly authorized by the above-
20 named corporators to receive the same. And whenever an
21 amount not less than two million dollars shall have been in

22 good faith subscribed to said stock, and ten per centum of
23 the same paid as above prescribed, it shall be the duty of the
24 above-named corporators, any fifteen of whom shall be a
25 quorum, to call a meeting of the stockholders, in either the
26 places above named, for the purpose of electing thirteen
27 directors for said corporation, in addition to two government
28 directors to be appointed by the President of the United
29 States, one of which thirteen shall reside in the District of
30 Columbia, and at least two in each of the States through
31 which said railroad shall pass; and each share of stock shall
32 entitle the owner thereof to one vote. And the President of
33 the United States shall have power, and it is hereby made his
34 duty, to annually appoint two directors for said corporation,
35 who shall hold their offices for the same term as those chosen
36 by the stockholders of this corporation, and to fill from time
37 to time any vacancy that may occur in the directors by him
38 so appointed. The corporators hereinbefore named shall
39 designate five of their number to attend and act as inspectors
40 of said election; and the inspectors so designated shall certify
41 under their hands the names of the directors thus duly elected;
42 and shall also notify the said directors of their election, and
43 of the time and place of holding the first meeting of said
44 directors; at which meeting the above-named corpora-
45 tors shall deliver to the said directors the books of subscrip-
46 tion to the stock of said company, with the amount paid

47 thereon, together with a full report of their proceedings under
48 this act ; and thereupon the duties of the corporators herein-
49 before named shall cease and determine forever ; and there-
50 after the stockholders shall constitute said body politic and
51 corporate. The directors thus chosen shall hold their office
52 for one year, and until others are elected and qualified to fill
53 their places ; and a majority of said directors shall constitute
54 a quorum for the transaction of business.

1 SEC. 4. *And be it further enacted,* That the directors
2 of said corporation shall, at their first meeting, elect from
3 their own number a president and vice-president ; they may
4 also from time to time elect a treasurer, secretary, chief engi-
5 neer, and general superintendent, together with such other
6 officers, agents, and employees as they may deem necessary,
7 each of whom shall hold office or position only during the
8 pleasure of said directors. The directors shall also have
9 power to fill all vacancies in the board that may be caused by
10 the death or resignation of any of its members, except as
11 hereinbefore provided for. The treasurer and secretary shall
12 give such bonds, with security, as the board shall from time
13 to time require. Meetings of the stockholders of said corpo-
14 ration for the election of directors, and for the transaction of
15 other business, shall be holden annually, and at such other
16 times, and upon such notice, as may be prescribed in the by-
17 laws.

1 SEC. 4. *And be it further enacted,* That the directors of
2 said corporation may require the subscribers to the capital
3 stock to pay the amount by them respectively subscribed at
4 such time, in such manner, and in such instalments as they
5 may deem proper. And if any stockholder shall refuse or
6 neglect to pay any instalment as required by a resolution of
7 the board of directors, the said board may forfeit said stock,
8 and all previous payments thereon, for the use of said corpo-
9 ration, under such general regulations as may be adopted in
10 the by-laws of said corporation, or may sue for and collect
11 in any court of competent jurisdiction.

1 SEC. 5. *And be it further enacted,* That said corporation
2 is hereby empowered to purchase, lease, receive, and hold
3 such real estate, or other property as may be necessary in
4 accomplishing the objects for which this incorporation is
5 granted; and may by their agents, engineers, contractors, or
6 workmen, immediately enter upon, take possession of, and
7 use all such real estate and property as may be necessary for
8 the construction, maintenance, and operation of their said
9 railway, and the accommodations requisite and appertaining
10 thereto. But all real estate or property thus entered upon
11 and appropriated by said corporation, which are not donations,
12 shall be purchased by said corporation of the owner or owners
13 of the same, at a price to be mutually agreed upon between
14 them. And in case of a disagreement as to price, and before

15 the final completion of said railway and its appurtenances,
16 the said corporation, or the owner or owners of such real
17 estate or property, shall apply by petition to one of the jus-
18 tices of the Supreme Court of the United States having
19 jurisdiction in the State or locality in which said real estate
20 or other property may be situated, particularly describing the
21 same; and the said justice, upon receiving such application,
22 shall cause such notice to be given to the other party as he
23 shall deem proper and sufficient, appointing therein a time
24 and place of hearing the parties; at which time and place,
25 upon proof that the notice directed has been given, the said
26 justice shall direct the manner of ascertaining the true value
27 of said real estate or other property, together with the
28 damages which the owner or owners thereof have sustained
29 or may sustain by reason of the appropriation, occupation,
30 and use thereof by the said corporation. And the said justice
31 shall appoint not less than three nor more than seven com-
32 petent and disinterested commissioners, who shall be free-
33 holders in the State or district, and at least one of whom
34 shall be a resident of the county in which said real estate or
35 other property may be situated; and who shall, under the
36 direction of the said justice, view said premises or property,
37 take such testimony as they may deem proper, make appraise-
38 ment, and determine the said damages, and report the same
39 under oath, and in writing, to the said justice. The report

40 shall contain a minute and accurate description of the real
41 estate or other property appraised, together with all the
42 evidence taken by the commissioners in the case. It shall
43 be the duty of the said justice to examine the report of the
44 said commissioners, and upon the application of either party
45 he shall give the parties a hearing in relation thereto. And
46 he shall have power to increase or diminish said appraisal or
47 damages if he shall become satisfied upon such hearing that
48 injustice has been done. Upon proof to the said justice—to
49 be made within sixty days after his determination—of pay-
50 ment to the owner, or of depositing to the credit of the owner,
51 or his legal representative, in such incorporated moneyed
52 institution as the said justice shall direct, the amount of said
53 award, and the payment of all expenses attending the same,
54 including an allowance of five dollars per diem to each of the
55 aforesaid commissioners, the said justice shall make an order
56 or decree, particularly describing said real estate or other
57 property and reciting the appraisement of damages, and the
58 mode of making it, together with such other facts as he may
59 deem pertinent; and when the said order or decree shall be
60 recorded in the clerk's office of the county, town, or city in
61 which said real estate or other property may be situated, and
62 also in the office of the Secretary of the Interior, the parties
63 aforesaid and their associates, successors, and assigns shall
64 be legally and equitably seized and possessed of such real

65 estate or other property for and in behalf of the United
 66 States and to the use and for the purposes hereinbefore de-
 67 scribed. In case any married woman, infant, idiot, insane
 68 person, or non-resident of the State or district in which said
 69 real estate or other property may be situated, shall be inter-
 70 ested in such real estate or other property, the said jus-
 71 tice shall appoint some competent disinterested person to
 72 appear before said commissioners, and act for and in behalf
 73 of such married woman, idiot, infant, insane person, or non-
 74 resident.

1 SEC. 6. *And be it further enacted*, That upon the final
 2 location of said railway, the parties aforesaid shall file, or
 3 cause to be filed, a correct map and profile thereof, made to
 4 such scale as the Secretary of the Interior may direct, in the
 5 office of Secretary of the Interior.

1 SEC. 7. *And be it further enacted*, That said corpora-
 2 tion shall have power to connect with any railway or rail-
 3 ways now constructed leading in the general direction of the
 4 line in this act specified, by consolidation of the stock of such
 5 railway corporations with this corporation, or otherwise, as
 6 may be mutually agreed upon : *Provided*, That nothing in
 7 this act shall be so construed as to authorize such connexion
 8 or arrangement with any existing company or companies as
 9 to defeat its object, which is hereby declared to be to furnish
 10 with one or more tracks an additional through line of rail-

11 road for the transportation of troops, seamen, government
12 supplies, and mails, between Washington and New York,
13 subject to the general control of the government, and upon
14 which government business shall have preference.

1 SEC. 8. *And be it further enacted,* That whenever the
2 location of or tracks of the railway hereby authorized to be
3 constructed shall cross the line or track of any other railway
4 now constructed, or in process of construction, the same shall
5 be done in such manner as to interfere as little as practicable
6 with the value or usefulness of such water course; and when-
7 ever any navigable streams or waters shall be crossed by
8 said railway, the same shall be provided with such suitable
9 draw-bridges as will as little as possible interfere with navi-
10 gation; and whenever any road or highway shall be crossed
11 or intersected by said railway, the same shall, whenever
12 practicable, be carried either over or under said railway, and
13 restored, as far as may be, to its former state and usefulness;
14 and the parties aforesaid shall have the right to cross, with
15 steamboats, any navigable water for the purposes of said rail-
16 way, on which steamboats, engines, and cars may be trans-
17 ported, if the same can be done without unreasonable delay,
18 and without interfering with the object of this act.

1 SEC. 9. *And be it further enacted,* That if any person
2 shall wilfully do, or cause to be done, any act or acts what-
3 ever, whereby any building, structure, or other work, or any

4 engine, car, or machine, or other property appertaining to said
5 railway, shall be injured, impaired, destroyed, or stopped, the
6 person or persons so offending shall be guilty of a misdemeanor,
7 and on conviction thereof by any court of competent jurisdiction,
8 shall be punished by fine, not less than one thousand
9 dollars nor more than five thousand dollars, or by imprisonment,
10 not less than one year nor more than five years; and
11 shall also forfeit and pay to the parties aforesaid, their associates,
12 successors, or assigns, double the amount of damages
13 sustained by means of such offences, to be recovered by the
14 parties aforesaid, with cost of suit, by action of debt, or case.

1 SEC. 10. *And be it further enacted,* That the gauge of
2 said railway track shall be of such uniform width throughout
3 its entire length as will best accommodate the majority of
4 the railway lines intersected or crossed; and the rails shall be
5 of American iron or steel manufacture; and the entire railway,
6 with all its structures, fixtures, outfits, and appurtenances,
7 shall be equal in character and workmanship to any
8 of the first class railways in the United States; and the cars
9 for first-class passengers shall be provided with all the
10 modern improvements for comfort and convenience. The
11 schedule rates of speed for passenger, mail, military, and
12 freight trains shall be equal in point of time to those of any
13 first-class railway in America, and shall not exceed ten
14 hours in time over the entire railway, when fully com-

15 pleted and equipped, for first-class passenger and mail
16 trains; fourteen hours for second-class and military trains,
17 and twenty hours for freight trains; and the tariff of
18 prices shall not exceed three cents per mile for ordinary first-
19 class passengers, and shall not exceed six cents per ton per
20 mile for first-class through freights, and other classes in proper
21 proportion. And the government of the United States
22 reserves to itself the perpetual right of priority of business
23 on said railway, to wit: The transmission of troops, seamen,
24 munitions of war, army and navy supplies, and other govern-
25 ment freights, at the same rates of charges as shall be made
26 by other railway lines, having equal facilities for similar ser-
27 vices, and also the transportation of the United States mails,
28 semi-daily, or oftener, each way, at rates not exceeding
29 the rates paid for similar service upon other first-class
30 railways in the country, of equal speed and capacity. And
31 the parties aforesaid shall at all times furnish such facilities
32 as may be required by the government for the prompt move-
33 ment of mails, government forces, and supplies, under the
34 conditions herein set forth.

1 SEC. 11. *And be it further enacted,* That the said line of
2 railway, with the ferries, crossings, and bridges hereby au-
3 thorized to be constructed, and the parts of lines of existing
4 railways hereby authorized to be used, shall be, and are here-
5 by, declared to be lawful structures and military roads and

6 postal routes, and part of the military establishment of the
7 United States, and the same, when completed, is hereby de-
8 clared to be a national public highway, subject, however, to
9 such just and reasonable rules and regulations as the parties
10 aforesaid may make, from time to time, and to the payment
11 of such tolls, not exceeding the sums herein fixed, as they
12 from time to time may impose.

1 SEC. 12. *And be it further enacted,* That the lines of rail-
2 way, carrying the mails of the United States, which may be
3 or may have been constructed under the authority of either
4 of the States through which the railway hereby authorized
5 shall pass, and all roads terminating in the city of New York,
6 with their connecting lines, shall have the right to connect
7 for the purpose of transportation with the line of railway
8 hereby authorized, on fair and equitable terms, under the
9 pro rata system now customary upon main lines in the
10 United States: *Provided,* That the said lines of railway so
11 claiming the right to connect shall reciprocate in traffic with
12 the line hereby authorized upon the same terms and without
13 any discrimination or prejudice against it. Such connecting
14 lines shall have the right to sell through tickets, check through
15 baggage, and transport frieghts to and from the city of Wash-
16 ington, in such manner and upon such terms as are customary
17 between connecting lines of railway; and through tickets,
18 through checks for baggage, and through receipts for freight

19 shall be furnished by the line hereby authorized, as far as
20 practicable, over such lines of railway (and their connecting
21 lines) as may connect with it, and as the traveller and ship-
22 per, or consignor, may select, and without discrimination or
23 prejudice to any one or more of said connecting lines.

1 SEC. 13. *And be it further enacted*, That if any suit
2 or proceeding, either in law or in equity, or any criminal
3 prosecution, shall be commenced in any State court against
4 the parties aforesaid, their associates, successors, or assigns, or
5 any person authorized or employed by them, for any act
6 done or omitted to be done in and about the construction or
7 use of the railway hereby authorized under and by virtue of
8 this act, or to restrain by injunction, or otherwise, the
9 construction, completion, or operation of the said railway ; or
10 for any damages growing out of the use of the same, or
11 construction thereof; and the defendant shall, at the time
12 of entering his appearance in such court, in said action or
13 proceeding, file a petition, stating the facts, and verified by
14 affidavits for the removal of the cause for the trial at the next
15 circuit court of the United States to be holden in the district
16 where such suit or prosecution is pending, and offer good and
17 sufficient security for his filing in such circuit court, on the first
18 day of its next session, copies of the process and other pro-
19 ceedings against him in such State court, and also for his appear-
20 ing in such circuit court and entering special bail in the cause

21 or proceeding, if special bail was originally required therein,
22 it shall then be the duty of the State court to accept the
23 security and proceed no further in the cause or prosecution,
24 and the bail that shall have been originally taken in such
25 State court shall be discharged. And upon such copies being
26 filed, as aforesaid, in such circuit court of the United States,
27 the cause or prosecution shall proceed therein in the same
28 manner as if it had been brought in such circuit court, what-
29 ever may be the amount in dispute or the damages claimed,
30 or whatever may be the citizenship of the parties, any law
31 to the contrary notwithstanding. And any attachment of the
32 goods or estate of the defendant, by original process from
33 such State court, shall hold the goods and estate so attached
34 to answer the final judgment in the same manner as by the
35 laws of such State they would have been holden to answer
36 final judgment had it been rendered in the court in which
37 the suit or prosecution was commenced, and from any final
38 judgment rendered in any such suit or prosecution by such
39 circuit courts, a writ of error shall lie to the Supreme Court
40 of the United States, whatever may be the amount of such
41 judgment, any law to the contrary notwithstanding.

1 SEC. 14. *And be it further enacted,* That the United
2 States, in consideration of the construction, by the parties
3 aforesaid, of the railway hereby authorized, hereby relinquish
4 to them for the term of years the control and management

5 of the said railway and the beneficial enjoyment of the same.
6 And the United States hereby grant to the parties aforesaid,
7 during the period aforesaid, the right to the custody, control,
8 and management of the said railway, and the enjoyment and
9 use of the tolls, receipts, and income thereof, and do hereby
10 agree to renew the rights hereby granted for the further
11 term of years: *Provided*, That the parties aforesaid, their
12 associates and successors, or assigns, shall, within one year
13 prior to the expiration of said first term, file with the
14 Secretary of the Interior a notification in writing of their
15 desire for such renewal.

1 SEC. 15. *And be it further enacted*, That the said line
2 of railway, with the ferries, crossings, and bridges hereby
3 authorized to be constructed and the parts of existing rail-
4 ways, shall be deemed and considered a national public high-
5 way and post road, with which all the principal railway
6 lines and mail routes in the country, either now constructed
7 or hereafter to be constructed, shall have the right to con-
8 nect for transportation purposes, on fair and equitable terms.
9 And such connecting lines shall at all times have the right to
10 sell through tickets and check through baggage to and from
11 the national capital, in such manner and upon such terms as
12 are now or may hereafter be customary between the connect-
13 ing railway lines of the country. And the corporation here-
14 by created shall, so far as may be practicable, furnish through

15 tickets to passengers and through checks for baggage over
16 such connecting lines of railway as the traveller may select,
17 and without discrimination or prejudice to any one or more
18 of said connecting lines.

1 SEC. 16. *And be it further enacted,* That said corpora-
2 tion shall make an annual report of their operations to the
3 Secretary of the Interior, in such form and containing such
4 items of information as he may prescribe; said report to be
5 verified by the certificates, under oath, of the president, trea-
6 surer, chief engineer, and general superintendent of said cor-
7 poration or railway.

1 SEC. 17. *And be it further enacted,* That the said cor-
2 poration shall, as soon as practicable after the election of
3 directors as hereinbefore provided, so commence and prosecute
4 the work of constructing and equipping said railway that it
5 shall be fully completed and equipped, with all the fixtures
6 and conveniences necessary for the prompt and efficient trans-
7 action of business thereon, as herein contemplated, within
8 two years from and after the passage of this act.

1 SEC. 14. *And be it further enacted,* That this act shall
2 be deemed and taken to be a public act, and as such notice
3 shall be taken of it by all courts without the necessity of
4 pleading the same.